

**FILED**

**MAR 10 2010**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

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**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

**SOUTHERN UTAH WILDERNESS  
ALLIANCE, et al,**

Petitioners,

v.

**DIVISION OF OIL, GAS, & MINING,  
DEPARTMENT OF NATURAL  
RESOURCES, STATE OF UTAH,**

Respondent.

**MOTION TO SET HEARING**

Docket No. 2009-019

Cause No. *C/025/0005*

Alton Coal Development, LLC ("Alton") by and through counsel, pursuant to Utah Code Ann. § 40-10-14(3) hereby MOVES TO SET THE HEARING on the merits in the above-captioned formal adjudicative proceeding before the Utah Board of Oil, Gas & Mining ("the

Board"). Alton respectfully requests that the Board set an evidentiary hearing in this matter on April 28, 29, and 30, 2010 in Salt Lake City, Utah.

#### CASE STATUS

On October 15, 2009, the Division of Oil, Gas and Mining approved the permit application for the Coal Hollow Mine. On November 18, 2009 The Utah Chapter of the Sierra Club, the Southern Utah Wilderness Alliance, the Natural Resources Defense Council, and the National Parks Conservation Association (collectively "Petitioners") requested a hearing pursuant to Utah Code section 40-10-14 on the reasons for the Division's decision. The Board held an initial hearing on December 8, 2009.

Subsequently, the Board entered its Order providing for discovery, including a site visit by petitioners, production of documents by Alton and the Division, and depositions. The Order provided that those discovery activities were to be complete by March 19, 2010. Alton now advises the Board that the site visit and production of documents are complete, Petitioners have deposed witnesses produced by Alton and the Division, and Petitioner's witnesses will be deposed by Alton and the Division on March 23 and 24. Therefore, discovery as ordered by the Board is complete, and the matter can now be heard.

Alton proposes that the Board set aside three days for this hearing, recognizing that this is a significant time commitment for Board members. Setting a late April date allows petitioners approximately six weeks following their depositions and site visit to prepare a case, and approximately one month following depositions for Alton and the Division to prepare.

In order to expedite the proceeding, Alton suggests that the Board exercise its authority under its rules of practice and procedure to order a prehearing conference of the parties to


address allocation of time in the hearing, stipulations, limitations of testimony, and other matters that will provide for efficient use of the Board's time. See Utah Admin. Code R641-107-100. Alton also proposes that the Board request pre-hearing briefs from all parties addressing the issues presented and addressing the appropriate legal standard for resolving each issue, with citations to relevant statutes, rules, and case law.

### **CONCLUSION**

Therefore, Alton Coal Development, LLC respectfully requests that the Board enter an order:

1. Setting the evidentiary hearing on the merits of the case for April 28, 29, and 30, 2010 in Salt Lake City, Utah;
2. Providing for filing of pre-hearing briefs on legal issues on April 21, 2010 or at a date convenient for the Board;
3. Set an April 21, 2010 deadline for filing motions in limine or other procedural motions;
4. Providing that the parties and Board counsel shall prepare a plan for apportioning time among the parties; and
5. Addressing such other matters as the Board deems necessary to the orderly and efficient conduct of the hearing.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of March, 2010.



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CERTIFICATE OF SERVICE

I hereby certify that on the 10<sup>th</sup> day of March, 2010, I mailed a true and correct copy of the foregoing MOTION TO SET HEARING via e-mail and United States mail, postage prepaid, to the following:

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A handwritten signature in black ink, appearing to read "Dwight D. Marshall", is written over a horizontal line.